

## 2009 DRAFTING REQUEST

### Assembly Amendment (AA-SB530)

Received: 04/18/2010

Received By: mkunkel

Wanted: As time permits

Companion to LRB:

For: Gordon Hintz (608) 266-2254

By/Representing: Cecely

May Contact:

Drafter: mkunkel

Subject: Fin. Inst. - int. rates/loans

Addl. Drafters:

Extra Copies: ARG

Submit via email: YES

Requester's email: Rep.Hintz@legis.wisconsin.gov

Carbon copy (CC:) to:

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#### Pre Topic:

No specific pre topic given

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#### Topic:

Regulation of auto title loans, balloon payments, rescission deadline, and insufficient funds requirments

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#### Instructions:

See attached

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#### Drafting History:

| <u>Vers.</u> | <u>Drafted</u>        | <u>Reviewed</u>    | <u>Typed</u>           | <u>Proofed</u> | <u>Submitted</u>      | <u>Jacketed</u>       | <u>Required</u> |
|--------------|-----------------------|--------------------|------------------------|----------------|-----------------------|-----------------------|-----------------|
| /?           | mkunkel<br>04/18/2010 | jdye<br>04/19/2010 |                        | _____          |                       |                       |                 |
| /1           |                       |                    | rschluet<br>04/19/2010 | _____          | lparisi<br>04/19/2010 | lparisi<br>04/19/2010 |                 |
| /2           | mkunkel<br>04/19/2010 | jdye<br>04/19/2010 | mduchek<br>04/19/2010  | _____          | lparisi<br>04/19/2010 | lparisi<br>04/19/2010 |                 |
| /3           | mkunkel               | jdye               | jfrantze               | _____          | lparisi               | lparisi               |                 |

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|--------------|----------------|-----------------|--------------|----------------|------------------|-----------------|-----------------|
|              | 04/20/2010     | 04/20/2010      | 04/20/2010   | _____          | 04/20/2010       | 04/20/2010      |                 |

FE Sent For:

&lt;END&gt;

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| /?           | mkunkel<br>04/18/2010 | jdyer<br>04/19/2010 |                        | _____          |                       |                       |                 |
| /1           |                       | 13 4/20 jd          | rschluet<br>04/19/2010 | _____          | lparisi<br>04/19/2010 | lparisi<br>04/19/2010 |                 |
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86 4/19

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|--------------|-----------------------|--------------------|------------------------|----------------|-----------------------|-----------------------|-----------------|
| /?           | mkunkel<br>04/18/2010 | jdye<br>04/19/2010 |                        |                |                       |                       |                 |
| /1           |                       | 1/24/19 jld        | rschluet<br>04/19/2010 |                | lparisi<br>04/19/2010 | lparisi<br>04/19/2010 |                 |

FE Sent For:

7/19 <END> 9/19

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|--------------|----------------|-------------------|--------------|----------------|------------------|-----------------|-----------------|
| /?           | mkunkel        | 1 4/19 jld<br>skd |              | PH             |                  |                 |                 |

FE Sent For:

<END>

**Kunkel, Mark**

---

**From:** Castillo, Cecely  
**Sent:** Friday, April 16, 2010 11:16 AM  
**To:** Kunkel, Mark  
**Subject:** RE: Further instructions for payday amendment

Mark your timing is fine. Timewise – we need this ready for Tuesday so Monday gives us time to review.

I will be here although I have a Drs apt at 2:30. I am going to also give you my cell phone #. Feel free to call me over the weekend at 773-793-0937

-C

Cecely Castillo  
Office of Representative Gordon Hintz  
322 West, State Capitol  
608-266-2254 or  
888-534-0054 toll-free  
cecely.castillo@legis.wisconsin.gov

---

**From:** Kunkel, Mark  
**Sent:** Friday, April 16, 2010 11:14 AM  
**To:** Castillo, Cecely  
**Subject:** RE: Further instructions for payday amendment

Cecely, will you around later today? I might want to make sure I understand clearly what you want.

I imagine that I'll do most of the work on this tomorrow (Sat.), so that it gets edited by our support staff early Monday am, so you would have something in hand late Monday am. Will that work? Or do you need it first thing Monday am?

-- Mark

---

**From:** Castillo, Cecely  
**Sent:** Friday, April 16, 2010 11:11 AM  
**To:** Kunkel, Mark  
**Cc:** McKinny, Chris; Hintz, Gordon  
**Subject:** RE: Further instructions for payday amendment

Mark,

You are correct. Just for auto title lenders.

Cecely Castillo  
Office of Representative Gordon Hintz  
322 West, State Capitol  
608-266-2254 or

04/16/2010

888-534-0054 toll-free  
 cecely.castillo@legis.wisconsin.gov

**From:** Kunkel, Mark  
**Sent:** Friday, April 16, 2010 9:49 AM  
**To:** Castillo, Cecely  
**Cc:** McKinny, Chris; Hintz, Gordon  
**Subject:** RE: Further instructions for payday amendment

Cecely, I'm just now starting to look at this and I have an initial question. Regarding auto title loans, all the things that you want regarding repossessing an auto, they only apply to a person who makes auto title loans, correct? In other words, you don't want those things to apply to any creditor who repossess as auto, only those creditors who make auto title loans. Is that correct?

-- Mark

**From:** Castillo, Cecely  
**Sent:** Thursday, April 15, 2010 6:36 PM  
**To:** Kunkel, Mark  
**Cc:** McKinny, Chris; Hintz, Gordon  
**Subject:** Further instructions for payday amendment

Mark,

Here are some additional instructions – I will check in with you tomorrow to ensure this all makes sense. And a HUGE thank you for your work on this.

-Cecely

**New provisions & changes:**

- auto title*
- ✓ Require the return of any proceeds in excess of the principal, interest and fees on a loan (so if you lose car and it is worth more then you get \$\$ back)
  - ✓ Prohibit lenders from taking physical possession of car keys →
  - ✓ Increase penalty provision from \$500 to \$1000 – *both*
  - For **both** PDL and auto title – include the following 3 provisions from AB 447 assembly sub amend 1:
    - ✓ Requires a payday loan provider, at least 15 minutes before entering into a payday loan, to disclose to the applicant the total amount of all fees and costs, in dollars, and the annual percentage rate, to be paid by the applicant assuming that the loan is paid in full at the end of the loan term and to make other disclosures regarding the requirements of this substitute amendment.
    - ✓ Requires the division to develop written materials about payday loans and the payday loan industry. A payday loan provider must provide the materials to an applicant when making the disclosures described above.
    - ✓ Requires payday loan providers to make annual reports about their business to the division.
  - ✓ Regarding the additional items you are adding (balloon payments, 48 hour rescission, present check only 1 time for insuff. fees) – these must also apply to both
  - We also need to make sure that the other provisions in SB 530 Sub. Amend apply to both Payday and auto title
    - Penalties
    - Private cause of action right

04/16/2010



- 48 hours of rescission
- Licensee, fees and database provisions
- Amount (50% of value of 35% of monthly income) must also be limit inclusive of all fees and costs – like payday is

Basically – we want auto title, under our amend to SB 530, to be subject to the same provisions as payday lenders **except** when we specified something different...

If you run into something that clearly would not work for auto title – let us know

**From:** Castillo, Cecely  
**Sent:** Thursday, April 15, 2010 9:35 AM  
**To:** Kunkel, Mark  
**Cc:** McKinny, Chris  
**Subject:** simple amendment

Mark,

A couple of payday things.

1. Can you draft the 3 amends (LRBa2125, a2124, a2126) as Assembly Amends to SB 530?

2. We need one more simple amendment for the payday lending bill SB 530. And this is a bit of a rush job....

- This amendment will include a new auto title regulation section (which I will spell out below)
- This amendment will also incorporate the 3 fixes you included in a2125:
  - ✓ Balloon payment language
  - ✓ Only allows insufficient check to be submitted once
  - ✓ 48 hour language for right of rescission

**New auto title regulation instructions:** (auto only)

- ✓ Auto title loans limited to no more than one year
- ✓ One loan per customer at a time (note- they will be tracked in database same as payday loans)
- ✓ Loans may not be for more than 50 percent of the motor vehicle's value (as stated in a recognized pricing guide, if listed in such a guide) **or** 35% of monthly gross income - whichever is less *Key 4515*
- ✓ Require notice before car reposed or sold - *personal service 5011 (1)(a) or (b) or letter*
- ✓ A lender may not charge the borrower for storage fees after the motor vehicle is repossessed or surrendered.
- ✓ Interest does not accrue on a loan after the motor vehicle securing the loan has been repossessed or after 60 days following the failure to make a payment unless the borrower is concealing the vehicle.

✓ • A lender that does not give the borrower 15 days written notice before repossessing a motor vehicle is barred from collecting the costs of repossession and sale from the borrower. [we chose 15 because that is what current law provides under s. 425.205 (1g)] There needs to be a penalty provision – and the penalty should be greater than the costs of repossession (about \$100) and the sale. It should be like s. 425.305, which provides that for a violation, the customer is entitled to retain the goods, services or money received, without obligation to pay any amount.

✓ Lenders are barred from seeking a deficiency judgment against a borrower following repossession or sale of the motor vehicle, absent misconduct by the borrower.

Please call me with any questions.

-Cecely

Cecely Castillo  
Office of Representative Gordon Hintz  
322 West, State Capitol  
608-266-2254 or  
888-534-0054 toll-free  
cecely.castillo@legis.wisconsin.gov

435 209  
N. L. Hintz

Court may not  
~~enter~~  
enter a def. judgment

### *Auto loans*

(12m) Require the return of any proceeds in excess of the principal, interest and fees on a loan (so if you lose car and it is worth more then you get \$\$ back)

(12m) Prohibit lenders from taking physical possession of car keys

(12m) Auto title loans limited to no more than one year

One loan per customer at a time (note- they will be tracked in database same as payday loans) (12) (b) 2.

Loans may not be for more than 50 percent of the motor vehicle's value (as stated in a recognized pricing guide, if listed in such a guide) *or* 35% of monthly gross income - whichever is less (12) (b) 2.

(12m) Require notice before car reposed or sold

Require something comparable to serving a notice on the person or leaving a notice at a person's home (as in s. 801.11 (1) (a) or (b))

Also, if notice before repo, no notice required before sale

(12m) A lender may not charge the borrower for storage fees after the motor vehicle is repossessed or surrendered.

(12m) Interest does not accrue on a loan after the motor vehicle securing the loan has been repossessed or after 60 days following the failure to make a payment unless the borrower is concealing the vehicle.

*- and add except (or subject to) (10)(a) 2.*

(12m) A lender that does not give the borrower 15 days written notice before repossessing a motor vehicle is barred from collecting the costs of repossession and sale from the borrower. [we chose 15 because that is what current law provides under s. 425.205 (1g)] There needs to be a penalty provision - and the penalty should be greater than the costs of repossession (about \$100) and the sale. It should be like s. 425.305, which provides that for a violation, the customer is entitled to retain the goods, services or money received, without obligation to pay any amount.

(12m) Lenders are barred from seeking a deficiency judgment against a borrower following repossession or sale of the motor vehicle, absent misconduct by the borrower.

*Notwithstanding s. 425.09? Court may not enter deficiency judgment etc.  
Also, I asked question about misconduct, but no answer yet*

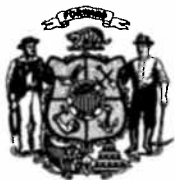
### ***Title and payday loans***

- ✓ Increase penalty provision from \$500 to \$1000

Include the following 3 provisions from AB 447 assembly sub amend 1:

- ✓
  - Requires a payday loan provider, at least 15 minutes before entering into a payday loan, to disclose to the applicant the total amount of all fees and costs, in dollars, and the annual percentage rate, to be paid by the applicant assuming that the loan is paid in full at the end of the loan term and to make other disclosures regarding the requirements of this substitute amendment.
- ✓
  - Requires the division to develop written materials about payday loans and the payday loan industry. A payday loan provider must provide the materials to an applicant when making the disclosures described above.
- ✓
  - Requires payday loan providers to make annual reports about their business to the division.
- ✓
  - Regarding the additional items you are adding (balloon payments, 48 hour rescission, present check only 1 time for insuff. fees) – these must also apply to both
- We also need to make sure that the other provisions in SB 530 Sub. Amend apply to both Payday and auto title
  - ✓
    - Penalties
    - ✓
      - Private cause of action right
      - ✓
        - 48 hours of rescission
        - Licensee, fees and database provisions
        - Amount (50% of value of 35% of monthly income) must also be limit inclusive of all fees and costs – like payday is (but see title loan instruction)

→ see diff for title loans



State of Wisconsin  
2009 - 2010 LEGISLATURE

*o-note*

LRBa2125/1

MDK files

*stay!*

*AA to*

SENATE AMENDMENT,

TO SENATE SUBSTITUTE AMENDMENT A

TO 2009 SENATE BILL 530

*02330/1*

*PM  
NOT  
RUN*

*MONDAY  
1 D:00am  
4-19*

*bill, as shown by*  
*1,*  
*senate*

*1*

At the locations indicated, amend the substitute amendment as follows:

1. Page 1, line 5: after "payday loans" insert "and motor vehicle title loans".
2. Page 1, line 6: delete "a payday lender" and substitute "such lenders".
3. Page 6, line 1: after "Payday" insert "and title".
4. Page 6, line 10: after "PAYDAY" insert "AND TITLE".
5. Page 6, line 14: after that line insert:  
"4. "Title lender" means a business, owned by a licensee, that makes title loans.  
5. "Title loan" has the meaning given in s. 138.14 (1) (m).".
6. Page 6, line 15: after "payday" insert "and title".
7. Page 6, line 16: on lines 16, 18, 19 and 21, before "lender" insert "or title".
8. Page 6, line 19: after "another payday" insert "or title".

1           **9.** Page 7, line 1: on lines 1, 3, 7 and 9, after “payday” insert “or title”.

2           **10.** Page 7, line 12: after “*Payday*” insert “*and title*”.

3           **11.** Page 7, line 16: after that line insert:

4           “d. “Title lender” means a business, owned by a licensee, that makes title loans.

5           e. “Title loan” has the meaning given in s. 138.14 (1) (m).”.

6           **12.** Page 7, line 17: on lines 17, 19, 20 and 22, before “lender” insert “or title”.

7           **13.** Page 7, line 20: after “another payday” insert “or title”.

8           **14.** Page 7, line 24: before “lenders” insert “or title”.

9           **15.** Page 8, line 1: on lines 1, 5 and 7, after “payday” insert “or title”.

10          **16.** Page 9, line 1: after “Payday” insert “or title”.

11          **17.** Page 9, line 15: after “payday” insert “or title”.

12          **18.** Page 10, line 2: after that line insert:

13          “**SECTION 11m.** 138.09 (8) (f) of the statutes is created to read:

14          138.09 (8) (f) Make no loan that requires a schedule of payments by a borrower  
15          under which any one payment is not equal or substantially equal to all other  
16          payments, or under which the intervals between any consecutive payments differ  
17          substantially.”.

18          **19.** Page 10, line 11: after “**Payday**” insert “**and title**”.

19          **20.** Page 10, line 21: after “payday” insert “or title”.

20          **21.** Page 11, line 12: after “payday” insert “or title”.

21          **22.** Page 12, line 4: after that line insert:

1 “(m) “Title loan” means a loan of \$25,000 or less to a borrower, who obtains or  
2 seeks to obtain the loan for personal, family, or household purposes, that is, or is to  
3 be, secured by an interest, other than a purchase money security interest, in the  
4 borrower’s motor vehicle ~~and that has an original term of not more than 9 months.~~ ✓

5 **23.** Page 12, line 5: on lines 5 and 8, after “payday” insert “or title”.

6 **24.** Page 12, line 9: on lines 9 and 23, after “payday” insert “and title”.

7 **25.** Page 13, line 20: after “payday” insert “or title”.

8 **26.** Page 15, line 2: after “payday” insert “or title”.

9 **27.** Page 16, line 17: on lines 17, 18, 20, 22 and 24, after “payday” insert “and  
10 title”. ✓

11 **28.** Page 17, line 1: on lines 1, 3, 5 and 7, after “payday” insert “and title”.  
12

13 **29.** Page 17, line 4: after “payday” insert “or title”.  
14

15 **30.** Page 19, line 22: on lines 22, 23 and 25, after “payday” insert “or title”.  
16

17 **31.** Page 20, line 11: on lines 11, 17 and 25, after “payday” insert “or title”.  
18

19 **32.** Page 20, line 14: delete lines 14 to 16 and substitute:  
20

21 “2. A licensee may present a customer’s check for payment no more than once.  
22 For each customer authorization to initiate an electronic fund transfer from the  
23 customer’s account, a licensee may initiate an electronic fund transfer no more than  
once. The only charge that a licensee may impose for dishonor of a customer’s check  
or denial of the licensee’s instruction to execute an electronic fund transfer is a  
service charge that does not exceed \$15.”.

24 **33.** Page 21, line 7: on lines 7, 8, 10, 11, 12 and 13, after “payday” insert “or  
25 title”.

INSERT 4-12 ✓

1 **34.** Page 21, line 8: delete the material beginning with “before the” and ending  
2 with “of business” on line 9 and substitute “no later than 48 hours”.

3 **35.** Page 21, line 15: on lines 15 and 17, after “subsequent payday” insert “or  
4 title”.

5 **36.** Page 21, line 15: after “another payday” insert “or title”.

6 **37.** Page 21, line 17: after “new payday” insert “or title”.

7 **38.** Page 21, line 19: after that line insert:

8 “(am) No licensee may make a payday or title loan that requires a schedule of  
9 payments by a customer under which any one payment is not equal or substantially  
10 equal to all other payments, or under which the intervals between any consecutive  
11 payments differ substantially.”.

12 ~~**39.** Page 21, line 20: on lines 20 and 22, after “payday” insert “or title”.~~

13 **40.** Page 22, line 1: on lines 1, 5, 8, 12, 14, 17 and 21, after “payday” insert “or  
14 title”.

15 **41.** Page 22, line 18: on lines 18 and 20, after “payday” insert “and title”.

16 **42.** Page 23, line 2: on lines 2, 4 and 5, after “payday” insert “or title”.

17 **43.** Page 24, line 4: after “payday” insert “and title”.

18 **44.** Page 24, line 13: after “payday” insert “or title”.

19 **45.** Page 25, line 4: on lines 4, 7, 15 and 23, after “payday” insert “or title”.

20 **46.** Page 25, line 17: on lines 17 and 19, after “payday” insert “and title”.

21 **47.** Page 26, line 2: after “payday” insert “and title”.

22 **48.** Page 26, line 16: on lines 16, 22 and 25, after “payday” insert “or title”.

INSERT 4-14 ✓



1 **49.** Page 27, line 1: on lines 1, 8 and 24, after “payday” insert “or title”.

2           **50.** Page 27, line 2: after “payday” insert “and title”.

3 **51.** Page 27, line 7: after “outstanding payday” insert “or title”.

4           **52.** Page 27, line 7: after “open payday” insert “or title”.

5           **53.** Page 27, line 15: on lines 15, 16 and 17, after “PAYDAY” insert “OR  
6       TITLE”.

7 **54.** Page 28, line 6: on lines 6, 10 and 25, after “payday” insert “or title”.

8 **55.** Page 28, line 14: on lines 14 and 16, after “payday” insert “and title”.

9 **56.** Page 29, line 4: on lines 4, 9 and 11, after “payday” insert “or title”.

10           **57.** Page 32, line 3: after “(k)” insert “, or a title loan, as defined in s. 138.14  
11           (1) (m)”.

12 **58.** Page 32, line 6: after “act,” insert “and title loans, as defined in section  
13 138.14 (1) (m) of the statutes, as created by this act,”.

14 (END)

INSERT  
5-8

**2009-2010 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRBa2330/lins  
MDK:.....

**INSERT 3-12:**

1  
2       **1.** Page 19, line 19: after that line insert: ✓

3       <sup>plain</sup>  
4       ~~(9g)~~ DISCLOSURE REQUIREMENTS. ✓ (a) Not less than 15 ✓ minutes before any  
5       licensee enters into a payday or title loan with an applicant, the licensee shall do all  
6       of the following:

7           1. Disclose to the applicant the total amount of all fees and costs, ✓ in dollars, to  
8           be paid by the applicant for the loan assuming that the loan is paid in full at the end  
9           of the loan term. ✓

10          2. Disclose to the applicant the annual percentage rate to be paid by the  
11          applicant on the loan assuming that the loan is paid in full at the end of the loan term. ✓

12          3. Provide to the applicant a copy of the written informational materials  
13          specified in sub. (9r). ✓

14          4. Disclose to the applicant that he or she has the right to rescind the loan  
15          transaction as provided in sub. (11r). ✓

16          5. Disclose to the applicant the service charge that may apply under sub. (10)  
17          (b) 2. ✓

18          6. Disclose to the applicant the payment requirements that may apply under  
19          sub. (11g) (a) ✓ if the loan is not paid in full at the end of the loan term.

20          (b) A licensee shall retain, for at least 3 ✓ years after the origination date of any  
21          payday or title loan, a record of compliance with par. (a) ✓ with respect to the loan.

22        **(9r)** INFORMATIONAL MATERIALS. ✓ (a) The division ✓ shall develop written  
23        informational materials on payday and title loans and the payday and title loan  
      industries. These informational materials shall be designed to educate individuals

↓

1 regarding the operation and potential costs of payday and title loans and of other  
2 options for borrowing funds that may be available.

3 (b) The informational materials under par. (a)✓ shall include a clear and  
4 conspicuous notice that a payday or title loan✓ is not intended to meet✓ long-term  
5 financial needs and that a payday or title loan applicant should use a payday or title  
6 loan only to provide funds in a financial emergency.✓

7 (c) The informational materials under par. (a)✓ shall include all of the following  
8 information, based upon aggregated information from reports submitted under sub.

9 (7) (d)✓ for the most recent reporting period:✓

10 1. The average annual percentage rate for payday and title loans.✓

11 2. The percentage of customers originating payday or title loans who defaulted  
12 on the loan.✓

13 3. The percentage of customers originating payday or title loans whose  
14 payment method was dishonored or denied for insufficient funds.✓

15 4. The percentage of customers originating payday or title loans that resulted  
16 in repayment under sub. (11g) (a).✓

17 (d) The informational materials under par. (a)✓ shall include a summary of all  
18 actions that the licensee may take against a payday or title loan customer if the  
19 customer defaults on the payday loan or if the customer's check or electronic fund  
20 transfer is dishonored or denied for insufficient funds.✓

21 (e) The division shall annually update the informational materials under par.  
22 (a),✓ based upon the division's analysis of reports received under sub. (7) (d).✓

23 (f) The division shall make copies of the informational materials under par. (a)✓  
24 available, upon request, to licensees and to the public, including making these  
25 informational materials available on the Internet site of the department of financial



institutions. The division may charge licensees a reasonable fee for printed copies of informational materials supplied under this paragraph.

**INSERT 3-13:**

2. Page 19, line 23: delete "2. If" and substitute "2. Subject to sub. (12m) (e), if".

**INSERT 4-12:**

3. Page 21, line 20: delete "(b)" and substitute "(b) 1."

4. Page 21, line 24: after that line insert:

"2. No licensee may make a title loan to a customer who is liable for repayment of any amount on a title loan made by the licensee or another licensee. No licensee may make a title loan to a customer that results in the customer having liability for the loan, in principal, interest, and all other fees and charges, of more than 50 percent of the value of the motor vehicle used as security for the loan or 35 percent of the customer's gross monthly income, whichever is less. The division shall promulgate rules for determining the value of a motor vehicle for purposes of this subdivision, including rules specifying pricing guides that may be used for determining value."

**INSERT 4-14:**

5. Page 22, line 17: after that line insert:

"(12m) TITLE LOANS. (a) A licensee may not require a customer to provide the licensee with a key or copy of a key to a motor vehicle used as security for a title loan as a condition for making the title loan to the customer."

(b) A licensee may not make a title loan to a customer that has a term of more than one year.



INS 4-14  
cont

(c) A licensee or person acting on behalf of a licensee may not take possession of a motor vehicle used as security for a title loan to a customer without serving notice on the customer in the manner provided under s. ~~940.11~~ (1) (a) or (b) at least 15 days prior to taking possession. The notice shall state the intent to take possession and describe the basis for the right to take possession. This paragraph does not apply to possession that is obtained by a customer's voluntary surrender of a motor vehicle. A violation of this paragraph is subject to s. 425.305.

(d) No licensee or other person may charge a customer any storage fee for a motor vehicle of the customer of which the licensee or person acting on behalf of the licensee has obtained possession, including possession that is obtained by voluntary surrender.

(e) No interest on a title loan may accrue as of the date that a licensee obtains possession of a motor vehicle used as security for the title loan, including possession that is obtained by voluntary surrender. No interest on a title loan may accrue after 60 days following a customer's failure to make any payment required for the loan, unless the customer has concealed the location of the motor vehicle used as security for the loan.

(f) A licensee shall return to a customer the amount of any proceeds from the disposition of a motor vehicle used as security for a title loan to the customer that exceed the customer's liability to the licensee for the loan.

(g) A customer is not liable to a licensee for any deficiency resulting from the licensee's disposition of a motor vehicle used as security for a title loan, unless the customer has engaged in misconduct.

(end ins)

INSERT 5-8:



1

**6.** Page 29, line 3: delete "\$500" and substitute "\$1,000". ✓

(end ins)

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRBa2330/1dn

MDK:.....

date

jld

Rep. Hintz: ✓

This amendment regulates title loans as you requested, and makes other changes to title and payday loans that you requested. Please note the following: ✓

\* 1. You asked that the amendment include a requirement for annual reports by licensees. However, SSA1 to SB-530 already includes such a requirement. ✓

2. I required the division of banking to promulgate rules specifying the pricing guides that may be used for determining the value of a motor vehicle for purposes of the limit on the amount of a title loan. ✓ I did so to prevent any disputes over what constitutes a recognized pricing guide.

3. The amendment requires a licensee to provide notice 15 ✓ days before taking possession of a motor vehicle used as security for a title loan, except for possession that is obtained by the customer's voluntary surrender of the motor vehicle. ✓ Is the exception okay? As for the notice itself, I assume that it should state the licensee's intent to take possession, as well as describe the basis for the licensee's right to take possession. Is that okay?

4. Section 138.14 (12m) (g) ✓ creates an exception for customer misconduct from the prohibition on deficiency judgments. However, I'm not quite sure what constitutes misconduct, and you may want to clarify your intent. ✓

Mark D. Kunkel  
Senior Legislative Attorney  
Phone: (608) 266-0131  
E-mail: mark.kunkel@legis.wisconsin.gov

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRBa2330/1dn  
MDK:jld:rs

April 19, 2010

Rep. Hintz:

This amendment regulates title loans as you requested, and makes other changes to title and payday loans that you requested. Please note the following:

1. You asked that the amendment include a requirement for annual reports by licensees. However, SSA 1 to SB-530 already includes such a requirement.
2. I required the division of banking to promulgate rules specifying the pricing guides that may be used for determining the value of a motor vehicle for purposes of the limit on the amount of a title loan. I did so to prevent any disputes over what constitutes a recognized pricing guide.
3. The amendment requires a licensee to provide notice 15 days before taking possession of a motor vehicle used as security for a title loan, except for possession that is obtained by the customer's voluntary surrender of the motor vehicle. Is the exception okay? As for the notice itself, I assume that it should state the licensee's intent to take possession, as well as describe the basis for the licensee's right to take possession. Is that okay?
4. Section 138.14 (12m) (g) creates an exception for customer misconduct from the prohibition on deficiency judgments. However, I'm not quite sure what constitutes misconduct, and you may want to clarify your intent.

Mark D. Kunkel  
Senior Legislative Attorney  
Phone: (608) 266-0131  
E-mail: [mark.kunkel@legis.wisconsin.gov](mailto:mark.kunkel@legis.wisconsin.gov)



**Kunkel, Mark**

---

**From:** Castillo, Cecely  
**Sent:** Monday, April 19, 2010 10:53 AM  
**To:** Kunkel, Mark  
**Cc:** McKinny, Chris  
**Subject:** 2 small changes

LRB 2330/1

1. This is my fault – this needs to be taken out [page 3 line 14 starting with (a) not less than.... To end of lone 16]

- Requires a payday loan provider, at least 15 minutes before entering into a payday loan, to disclose to the applicant the total amount of all fees and costs, in dollars, and the annual percentage rate, to be paid by the applicant assuming that the loan is paid in full at the end of the loan term and to make other disclosures regarding the requirements of this substitute amendment.

2.

in the private cause of action – add “actual damage” language – like we did in AB 447 sub:

From AB 447

“Allows a customer to bring an action against a payday loan provider who makes a payday loan that violates the substitute amendment. In such an action, the customer may obtain an amount equal to twice the interest charged for the loan, or the actual damages, whichever is greater, as well as costs and attorney fees.”

Cecely Castillo  
Office of Representative Gordon Hintz  
322 West, State Capitol  
608-266-2254 or  
888-534-0054 toll-free  
cecely.castillo@legis.wisconsin.gov

04/19/2010



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRBa2330/1-  
MDK:jld:rs

D-NOTE

ASSEMBLY AMENDMENT,  
TO 2009 SENATE BILL 530

PM has  
been

At the locations indicated, amend the bill, as shown by senate substitute amendment 1, as follows:

1. Page 1, line 5: after "payday loans" insert "and motor vehicle title loans".

2. Page 1, line 6: delete "a payday lender" and substitute "such lenders".

3. Page 6, line 1: after "Payday" insert "and title".

4. Page 6, line 10: after "PAYDAY" insert "AND TITLE".

5. Page 6, line 14: after that line insert:

"4. "Title lender" means a business, owned by a licensee, that makes title loans.

5. "Title loan" has the meaning given in s. 138.14 (1) (m)."

6. Page 6, line 15: after "payday" insert "and title".

7. Page 6, line 16: on lines 16, 18, 19 and 21, before "lender" insert "or title".

8. Page 6, line 19: after "another payday" insert "or title".

1           **9.** Page 7, line 1: on lines 1, 3, 7 and 9, after “payday” insert “or title”.

2           **10.** Page 7, line 12: after “Payday” insert “*and title*”.

3           **11.** Page 7, line 16: after that line insert:

4           “d. “Title lender” means a business, owned by a licensee, that makes title loans.

5           e. “Title loan” has the meaning given in s. 138.14 (1) (m).”.

6           **12.** Page 7, line 17: on lines 17, 19, 20 and 22, before “lender” insert “or title”.

7           **13.** Page 7, line 20: after “another payday” insert “or title”.

8           **14.** Page 7, line 24: before “lenders” insert “or title”.

9           **15.** Page 8, line 1: on lines 1, 5 and 7, after “payday” insert “or title”.

10          **16.** Page 9, line 1: after “Payday” insert “or title”.

11          **17.** Page 9, line 15: after “payday” insert “or title”.

12          **18.** Page 10, line 2: after that line insert:

13          “**SECTION 11m.** 138.09 (8) (f) of the statutes is created to read:

14          138.09 (8) (f) Make no loan that requires a schedule of payments by a borrower  
15          under which any one payment is not equal or substantially equal to all other  
16          payments, or under which the intervals between any consecutive payments differ  
17          substantially.”.

18          **19.** Page 10, line 11: after “Payday” insert “**and title**”.

19          **20.** Page 10, line 21: after “payday” insert “or title”.

20          **21.** Page 11, line 12: after “payday” insert “or title”.

21          **22.** Page 12, line 4: after that line insert:

1           “(m) “Title loan” means a loan of \$25,000 or less to a borrower, who obtains or  
2 seeks to obtain the loan for personal, family, or household purposes, that is, or is to  
3 be, secured by an interest, other than a purchase money security interest, in the  
4 borrower’s motor vehicle.”.

5           **23.** Page 12, line 5: on lines 5 and 8, after “payday” insert “or title”.

6           **24.** Page 12, line 9: on lines 9 and 23, after “payday” insert “and title”.

7           **25.** Page 13, line 20: after “payday” insert “or title”.

8           **26.** Page 15, line 2: after “payday” insert “or title”.

9           **27.** Page 16, line 17: on lines 17, 18, 20, 22 and 24, after “payday” insert “and  
10 title”.

11           **28.** Page 17, line 1: on lines 1, 3, 5 and 7, after “payday” insert “and title”.

12           **29.** Page 17, line 4: after “payday” insert “or title”.

13           **30.** Page 19, line 19: after that line insert:

14           **“(9g) DISCLOSURE REQUIREMENTS.”** (a) ~~Not less than 15 minutes~~  
15 licensee enters into a payday or title loan with an applicant, the licensee shall do all  
16 of the following:

17           1. Disclose to the applicant the total amount of all fees and costs, in dollars, to  
18 be paid by the applicant for the loan assuming that the loan is paid in full at the end  
19 of the loan term.

20           2. Disclose to the applicant the annual percentage rate to be paid by the  
21 applicant on the loan assuming that the loan is paid in full at the end of the loan term.

22           3. Provide to the applicant a copy of the written informational materials  
23 specified in sub. (9r).

1           4. Disclose to the applicant that he or she has the right to rescind the loan  
2 transaction as provided in sub. (11r).

3           5. Disclose to the applicant the service charge that may apply under sub. (10)  
4 (b) 2.

5           6. Disclose to the applicant the payment requirements that may apply under  
6 sub. (11g) (a) if the loan is not paid in full at the end of the loan term.

7           (b) A licensee shall retain, for at least 3 years after the origination date of any  
8 payday or title loan, a record of compliance with par. (a) with respect to the loan.

9           **(9r)** INFORMATIONAL MATERIALS. (a) The division shall develop written  
10 informational materials on payday and title loans and the payday and title loan  
11 industries. These informational materials shall be designed to educate individuals  
12 regarding the operation and potential costs of payday and title loans and of other  
13 options for borrowing funds that may be available.

14           (b) The informational materials under par. (a) shall include a clear and  
15 conspicuous notice that a payday or title loan is not intended to meet long-term  
16 financial needs and that a payday or title loan applicant should use a payday or title  
17 loan only to provide funds in a financial emergency.

18           (c) The informational materials under par. (a) shall include all of the following  
19 information, based upon aggregated information from reports submitted under sub.  
20 (7) (d) for the most recent reporting period:

21           1. The average annual percentage rate for payday and title loans.

22           2. The percentage of customers originating payday or title loans who defaulted  
23 on the loan.

24           3. The percentage of customers originating payday or title loans whose  
25 payment method was dishonored or denied for insufficient funds.

1           4. The percentage of customers originating payday or title loans that resulted  
2 in repayment under sub. (11g) (a).

3           (d) The informational materials under par. (a) shall include a summary of all  
4 actions that the licensee may take against a payday or title loan customer if the  
5 customer defaults on the payday loan or if the customer's check or electronic fund  
6 transfer is dishonored or denied for insufficient funds.

7           (e) The division shall annually update the informational materials under par.  
8 (a), based upon the division's analysis of reports received under sub. (7) (d).

9           (f) The division shall make copies of the informational materials under par. (a)  
10 available, upon request, to licensees and to the public, including making these  
11 informational materials available on the Internet site of the department of financial  
12 institutions. The division may charge licensees a reasonable fee for printed copies  
13 of informational materials supplied under this paragraph.”.

14           **31.** Page 19, line 22: on lines 22, 23 and 25, after “payday” insert “or title”.

15           **32.** Page 19, line 23: delete “2. If” and substitute:

16           “2. Subject to sub. (12m) (e), if”.

17           **33.** Page 20, line 11: on lines 11, 17 and 25, after “payday” insert “or title”.

18           **34.** Page 20, line 14: delete lines 14 to 16 and substitute:

19           “2. A licensee may present a customer's check for payment no more than once.  
20 For each customer authorization to initiate an electronic fund transfer from the  
21 customer's account, a licensee may initiate an electronic fund transfer no more than  
22 once. The only charge that a licensee may impose for dishonor of a customer's check  
23 or denial of the licensee's instruction to execute an electronic fund transfer is a  
24 service charge that does not exceed \$15.”.

1           **35.** Page 21, line 7: on lines 7, 8, 10, 11, 12 and 13, after “payday” insert “or  
2 title”.

3           **36.** Page 21, line 8: delete the material beginning with “before the” and ending  
4 with “of business” on line 9 and substitute “no later than 48 hours”.

5           **37.** Page 21, line 15: on lines 15 and 17, after “subsequent payday” insert “or  
6 title”.

7           **38.** Page 21, line 15: after “another payday” insert “or title”.

8           **39.** Page 21, line 17: after “new payday” insert “or title”.

9           **40.** Page 21, line 19: after that line insert:

10           “(am) No licensee may make a payday or title loan that requires a schedule of  
11 payments by a customer under which any one payment is not equal or substantially  
12 equal to all other payments, or under which the intervals between any consecutive  
13 payments differ substantially.”.

14           **41.** Page 21, line 20: delete “(b)” and substitute “(b) 1.”.

15           **42.** Page 21, line 24: after that line insert:

16           “2. No licensee may make a title loan to a customer who is liable for repayment  
17 of any amount on a title loan made by the licensee or another licensee. No licensee  
18 may make a title loan to a customer that results in the customer having liability for  
19 the loan, in principal, interest, and all other fees and charges, of more than 50 percent  
20 of the value of the motor vehicle used as security for the loan or 35 percent of the  
21 customer’s gross monthly income, whichever is less. The division shall promulgate  
22 rules for determining the value of a motor vehicle for purposes of this subdivision,  
23 including rules specifying pricing guides that may be used for determining value.”.

1           **43.** Page 22, line 1: on lines 1, 5, 8, 12, 14, 17 and 21, after “payday” insert “or  
2 title”.

3           **44.** Page 22, line 17: after that line insert:

4           “(12m) TITLE LOANS. (a) A licensee may not require a customer to provide the  
5 licensee with a key or copy of a key to a motor vehicle used as security for a title loan  
6 as a condition for making the title loan to the customer.

7           (b) A licensee may not make a title loan to a customer that has a term of more  
8 than one year.

9           (c) A licensee or person acting on behalf of a licensee may not take possession  
10 of a motor vehicle used as security for a title loan to a customer without serving notice  
11 on the customer in the manner provided under s. 801.11 (1) (a) or (b) at least 15 days  
12 prior to taking possession. The notice shall state the intent to take possession and  
13 describe the basis for the right to take possession. This paragraph does not apply to  
14 possession that is obtained by a customer’s voluntary surrender of a motor vehicle.  
15 A violation of this paragraph is subject to s. 425.305.

16           (d) No licensee or other person may charge a customer any storage fee for a  
17 motor vehicle of the customer of which the licensee or person acting on behalf of the  
18 licensee has obtained possession, including possession that is obtained by voluntary  
19 surrender.

20           (e) No interest on a title loan may accrue as of the date that a licensee obtains  
21 possession of a motor vehicle used as security for the title loan, including possession  
22 that is obtained by voluntary surrender. No interest on a title loan may accrue after  
23 60 days following a customer’s failure to make any payment required for the loan,



1 unless the customer has concealed the location of the motor vehicle used as security  
2 for the loan.

3 (f) A licensee shall return to a customer the amount of any proceeds from the  
4 disposition of a motor vehicle used as security for a title loan to the customer that  
5 exceed the customer's liability to the licensee for the loan.

6 (g) A customer is not liable to a licensee for any deficiency resulting from the  
7 licensee's disposition of a motor vehicle used as security for a title loan, unless the  
8 customer has engaged in misconduct.”.

9 **45.** Page 22, line 18: on lines 18 and 20, after “payday” insert “and title”.

10 **46.** Page 23, line 2: on lines 2, 4 and 5, after “payday” insert “or title”.

11 **47.** Page 24, line 4: after “payday” insert “and title”.

12 **48.** Page 24, line 13: after “payday” insert “or title”.

13 **49.** Page 25, line 4: on lines 4, 7, 15 and 23, after “payday” insert “or title”.

14 **50.** Page 25, line 17: on lines 17 and 19, after “payday” insert “and title”.

15 **51.** Page 26, line 2: after “payday” insert “and title”.

16 **52.** Page 26, line 16: on lines 16, 22 and 25, after “payday” insert “or title”.

17 **53.** Page 27, line 1: on lines 1, 8 and 24, after “payday” insert “or title”.

18 **54.** Page 27, line 2: after “payday” insert “and title”.

19 **55.** Page 27, line 7: after “outstanding payday” insert “or title”.

20 **56.** Page 27, line 7: after “open payday” insert “or title”.

21 **57.** Page 27, line 15: on lines 15, 16 and 17, after “PAYDAY” insert “OR  
22 TITLE”.

- 1           **58.** Page 28, line 6: on lines 6, 10 and 25, after "payday" insert "or title".
- 2           **59.** Page 28, line 14: on lines 14 and 16, after "payday" insert "and title".
- 3           **60.** Page 29, line 3: delete "\$500" and substitute "\$1,000".
- 4           **61.** Page 29, line 4: ~~on lines 4, 9 and 11~~ after "payday" insert "or title". ✓
- 5           **62.** Page 32, line 3: after "(k)" insert ", or a title loan, as defined in s. 138.14
- 6           (1) (m)".
- 7           **63.** Page 32, line 6: after "act," insert "and title loans, as defined in section
- 8           138.14 (1) (m) of the statutes, as created by this act,".

9           (END)

INSERT 9-4 ✓

d-note  
↓

2009-2010 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRBa2330/2ins  
MDK:.....

INSERT 9-4:

1  
2 *Nbs* P. Page 29, line 9: delete lines 9 to 12 and substitute:  
3 *(16)* PRIVATE CAUSE OF ACTION. If a person makes a payday or title loan to a  
4 customer that violates this section, the customer may bring an action against the  
5 person for an amount equal to twice the interest charged for the loan, or the actual  
6 damages, including any incidental and consequential damages, sustained by the  
7 customer by reason of the violation, whichever is greater, and, notwithstanding s.  
8 814.04 (1), the costs of the action, including reasonable attorney fees."

(end ins)

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

*date*

LRBa2330/2dn

MDK:.....  
*Jld*

Rep. Hintz:✓

This version is identical to the previous version, except for the following: ✓

1. The 15-minute requirement is removed from the disclosure requirements.
2. The private cause of action is based on the private cause of action in ASA1 to AB-447. *Δ*

Mark D. Kunkel  
Senior Legislative Attorney  
Phone: (608) 266-0131  
E-mail: mark.kunkel@legis.wisconsin.gov

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRBa2330/2dn  
MDK:jld:md

April 19, 2010

Rep. Hintz:

This version is identical to the previous version, except for the following:

1. The 15-minute requirement is removed from the disclosure requirements.
2. The private cause of action is based on the private cause of action in ASA 1 to AB-447.

Mark D. Kunkel  
Senior Legislative Attorney  
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**Kunkel, Mark**

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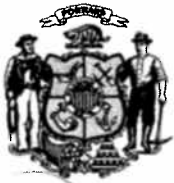
**From:** Castillo, Cecely

**Sent:** Tuesday, April 20, 2010 11:33 AM

**To:** Kunkel, Mark

**4.** Page 11, line 4: before “by returning” insert “or, if the place of business where the loan is made is open 24 hours, before 5 p.m. on the next day of business after the loan is made,”.

Cecely Castillo  
Office of Representative Gordon Hintz  
322 West, State Capitol  
608-266-2254 or  
888-534-0054 toll-free  
cecely.castillo@legis.wisconsin.gov



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRBa2330/2  
MDK:jld:md

3

Now

PM has been done

ASSEMBLY AMENDMENT ,  
TO 2009 SENATE BILL 530

- 1 At the locations indicated, amend the bill, as shown by senate substitute  
2 amendment 1, as follows:
- 3 **1.** Page 1, line 5: after “payday loans” insert “and motor vehicle title loans”.
- 4 **2.** Page 1, line 6: delete “a payday lender” and substitute “such lenders”.
- 5 **3.** Page 6, line 1: after “*Payday*” insert “*and title*”.
- 6 **4.** Page 6, line 10: after “PAYDAY” insert “AND TITLE”.
- 7 **5.** Page 6, line 14: after that line insert:
- 8 “4. “Title lender” means a business, owned by a licensee, that makes title loans.
- 9 5. “Title loan” has the meaning given in s. 138.14 (1) (m).”.
- 10 **6.** Page 6, line 15: after “*payday*” insert “*and title*”.
- 11 **7.** Page 6, line 16: on lines 16, 18, 19 and 21, before “lender” insert “or title”.
- 12 **8.** Page 6, line 19: after “another payday” insert “or title”.

1       **9.** Page 7, line 1: on lines 1, 3, 7 and 9, after “payday” insert “or title”.

2       **10.** Page 7, line 12: after “*Payday*” insert “*and title*”.

3       **11.** Page 7, line 16: after that line insert:

4       “d. “Title lender” means a business, owned by a licensee, that makes title loans.

5       e. “Title loan” has the meaning given in s. 138.14 (1) (m).”.

6       **12.** Page 7, line 17: on lines 17, 19, 20 and 22, before “lender” insert “or title”.

7       **13.** Page 7, line 20: after “another payday” insert “or title”.

8       **14.** Page 7, line 24: before “lenders” insert “or title”.

9       **15.** Page 8, line 1: on lines 1, 5 and 7, after “payday” insert “or title”.

10       **16.** Page 9, line 1: after “Payday” insert “or title”.

11       **17.** Page 9, line 15: after “payday” insert “or title”.

12       **18.** Page 10, line 2: after that line insert:

13       “**SECTION 11m.** 138.09 (8) (f) of the statutes is created to read:

14       138.09 (8) (f) Make no loan that requires a schedule of payments by a borrower  
15       under which any one payment is not equal or substantially equal to all other  
16       payments, or under which the intervals between any consecutive payments differ  
17       substantially.”.

18       **19.** Page 10, line 11: after “**Payday**” insert “**and title**”.

19       **20.** Page 10, line 21: after “payday” insert “or title”.

20       **21.** Page 11, line 12: after “payday” insert “or title”.

21       **22.** Page 12, line 4: after that line insert:



1           “(m) “Title loan” means a loan of \$25,000 or less to a borrower, who obtains or  
2       seeks to obtain the loan for personal, family, or household purposes, that is, or is to  
3       be, secured by an interest, other than a purchase money security interest, in the  
4       borrower’s motor vehicle.”.

5           **23.** Page 12, line 5: on lines 5 and 8, after “payday” insert “or title”.

6           **24.** Page 12, line 9: on lines 9 and 23, after “payday” insert “and title”.

7           **25.** Page 13, line 20: after “payday” insert “or title”.

8           **26.** Page 15, line 2: after “payday” insert “or title”.

9           **27.** Page 16, line 17: on lines 17, 18, 20, 22 and 24, after “payday” insert “and  
10       title”.

11          **28.** Page 17, line 1: on lines 1, 3, 5 and 7, after “payday” insert “and title”.

12          **29.** Page 17, line 4: after “payday” insert “or title”.

13          **30.** Page 19, line 19: after that line insert:

14          **“(9g) DISCLOSURE REQUIREMENTS.** (a) Before any licensee enters into a payday  
15       or title loan with an applicant, the licensee shall do all of the following:

16           1. Disclose to the applicant the total amount of all fees and costs, in dollars, to  
17       be paid by the applicant for the loan assuming that the loan is paid in full at the end  
18       of the loan term.

19           2. Disclose to the applicant the annual percentage rate to be paid by the  
20       applicant on the loan assuming that the loan is paid in full at the end of the loan term.

21           3. Provide to the applicant a copy of the written informational materials  
22       specified in sub. (9r).

1           4. Disclose to the applicant that he or she has the right to rescind the loan  
2 transaction as provided in sub. (11r).

3           5. Disclose to the applicant the service charge that may apply under sub. (10)  
4 (b) 2.

5           6. Disclose to the applicant the payment requirements that may apply under  
6 sub. (11g) (a) if the loan is not paid in full at the end of the loan term.

7           (b) A licensee shall retain, for at least 3 years after the origination date of any  
8 payday or title loan, a record of compliance with par. (a) with respect to the loan.

9           **(9r)** INFORMATIONAL MATERIALS. (a) The division shall develop written  
10 informational materials on payday and title loans and the payday and title loan  
11 industries. These informational materials shall be designed to educate individuals  
12 regarding the operation and potential costs of payday and title loans and of other  
13 options for borrowing funds that may be available.

14           (b) The informational materials under par. (a) shall include a clear and  
15 conspicuous notice that a payday or title loan is not intended to meet long-term  
16 financial needs and that a payday or title loan applicant should use a payday or title  
17 loan only to provide funds in a financial emergency.

18           (c) The informational materials under par. (a) shall include all of the following  
19 information, based upon aggregated information from reports submitted under sub.  
20 (7) (d) for the most recent reporting period:

21           1. The average annual percentage rate for payday and title loans.

22           2. The percentage of customers originating payday or title loans who defaulted  
23 on the loan.

24           3. The percentage of customers originating payday or title loans whose  
25 payment method was dishonored or denied for insufficient funds.

1           4. The percentage of customers originating payday or title loans that resulted  
2 in repayment under sub. (11g) (a).

3           (d) The informational materials under par. (a) shall include a summary of all  
4 actions that the licensee may take against a payday or title loan customer if the  
5 customer defaults on the payday loan or if the customer's check or electronic fund  
6 transfer is dishonored or denied for insufficient funds.

7           (e) The division shall annually update the informational materials under par.  
8 (a), based upon the division's analysis of reports received under sub. (7) (d).

9           (f) The division shall make copies of the informational materials under par. (a)  
10 available, upon request, to licensees and to the public, including making these  
11 informational materials available on the Internet site of the department of financial  
12 institutions. The division may charge licensees a reasonable fee for printed copies  
13 of informational materials supplied under this paragraph.”.

14           **31.** Page 19, line 22: on lines 22, 23 and 25, after “payday” insert “or title”.

15           **32.** Page 19, line 23: delete “2. If” and substitute:

16           “2. Subject to sub. (12m) (e), if”.

17           **33.** Page 20, line 11: on lines 11, 17 and 25, after “payday” insert “or title”.

18           **34.** Page 20, line 14: delete lines 14 to 16 and substitute:

19           “2. A licensee may present a customer's check for payment no more than once.  
20 For each customer authorization to initiate an electronic fund transfer from the  
21 customer's account, a licensee may initiate an electronic fund transfer no more than  
22 once. The only charge that a licensee may impose for dishonor of a customer's check  
23 or denial of the licensee's instruction to execute an electronic fund transfer is a  
24 service charge that does not exceed \$15.”.

INSERT 6-2

1 **35.** Page 21, line 7: on lines 7, 8, 10, 11, 12 and 13, after "payday" insert "or  
2 title".

3 **36.** Page 21, line 8: delete the material beginning with "before the" and ending  
4 with "of business" on line 9 and substitute "no later than 48 hours".

5 **37.** Page 21, line 15: on lines 15 and 17, after "subsequent payday" insert "or  
6 title".

7 **38.** Page 21, line 15: after "another payday" insert "or title".

8 **39.** Page 21, line 17: after "new payday" insert "or title".

9 **40.** Page 21, line 19: after that line insert:

10 "(am) No licensee may make a payday or title loan that requires a schedule of  
11 payments by a customer under which any one payment is not equal or substantially  
12 equal to all other payments, or under which the intervals between any consecutive  
13 payments differ substantially."

14 **41.** Page 21, line 20: delete "(b)" and substitute "(b) 1."

15 **42.** Page 21, line 24: after that line insert:

16 "2. No licensee may make a title loan to a customer who is liable for repayment  
17 of any amount on a title loan made by the licensee or another licensee. No licensee  
18 may make a title loan to a customer that results in the customer having liability for  
19 the loan, in principal, interest, and all other fees and charges, of more than 50 percent

20 of the value of the motor vehicle used as security for the loan ~~at 35 percent of the~~  
21 customer's gross monthly income, whichever is less. ~~The division shall promulgate~~  
Plain period

22 rules for determining the value of a motor vehicle for purposes of this subdivision,  
23 including rules specifying pricing guides that may be used for determining value."

1           **43.** Page 22, line 1: on lines 1, 5, 8, 12, 14, 17 and 21, after “payday” insert “or  
2 title”.

3           **44.** Page 22, line 17: after that line insert:

4           “(12m) TITLE LOANS. (a) A licensee may not require a customer to provide the  
5 licensee with a key or copy of a key to a motor vehicle used as security for a title loan  
6 as a condition for making the title loan to the customer.

7           (b) A licensee may not make a title loan to a customer that has a term of more  
8 than one year.

9           (c) A licensee or person acting on behalf of a licensee may not take possession  
10 of a motor vehicle used as security for a title loan to a customer without serving notice  
11 on the customer in the manner provided under s. 801.11 (1) (a) or (b) at least 15 days  
12 prior to taking possession. The notice shall state the intent to take possession and  
13 describe the basis for the right to take possession. This paragraph does not apply to  
14 possession that is obtained by a customer’s voluntary surrender of a motor vehicle.  
15 A violation of this paragraph is subject to s. 425.305.

16           (d) ~~No~~ licensee or other person may charge a customer ~~the~~ *a reasonable* storage fee for a  
17 motor vehicle of the customer of which the licensee or person acting on behalf of the  
18 licensee has obtained possession, including possession that is obtained by voluntary  
19 surrender.

20           (e) No interest on a title loan may accrue as of the date that a licensee obtains  
21 possession of a motor vehicle used as security for the title loan, including possession  
22 that is obtained by voluntary surrender. No interest on a title loan may accrue after  
23 60 days following a customer’s failure to make any payment required for the loan,

1 unless the customer has concealed the location of the motor vehicle used as security  
2 for the loan.

3 (f) A licensee shall return to a customer the amount of any proceeds from the  
4 disposition of a motor vehicle used as security for a title loan to the customer that  
5 exceed the customer's liability to the licensee for the loan.

6 (g) A customer is not liable to a licensee for any deficiency resulting from the  
7 licensee's disposition of a motor vehicle used as security for a title loan, unless the  
8 customer has engaged in misconduct.”.

9 **45.** Page 22, line 18: on lines 18 and 20, after “payday” insert “and title”.

10 **46.** Page 23, line 2: on lines 2, 4 and 5, after “payday” insert “or title”.

11 **47.** Page 24, line 4: after “payday” insert “and title”.

12 **48.** Page 24, line 13: after “payday” insert “or title”.

13 **49.** Page 25, line 4: on lines 4, 7, 15 and 23, after “payday” insert “or title”.

14 **50.** Page 25, line 17: on lines 17 and 19, after “payday” insert “and title”.

15 **51.** Page 26, line 2: after “payday” insert “and title”.

16 **52.** Page 26, line 16: on lines 16, 22 and 25, after “payday” insert “or title”.

17 **53.** Page 27, line 1: on lines 1, 8 and 24, after “payday” insert “or title”.

18 **54.** Page 27, line 2: after “payday” insert “and title”.

19 **55.** Page 27, line 7: after “outstanding payday” insert “or title”.

20 **56.** Page 27, line 7: after “open payday” insert “or title”.

21 **57.** Page 27, line 15: on lines 15, 16 and 17, after “PAYDAY” insert “OR  
22 TITLE”.

**58.** Page 28, line 6: on lines 6, 10 and 25, after “payday” insert “or title”.

**59.** Page 28, line 14: on lines 14 and 16, after “payday” insert “and title”.

**60.** Page 29, line 3: delete “\$500” and substitute “\$1,000”.

**61.** Page 29, line 4: after “payday” insert “or title”.

**62.** Page 29, line 9: delete lines 9 to 12 and substitute:

“(16) PRIVATE CAUSE OF ACTION. If a person makes a payday or title loan to a customer that violates this section, the customer may bring an action against the person for an amount equal to twice the interest charged for the loan, or the actual damages, including any incidental and consequential damages, sustained by the customer by reason of the violation, whichever is greater, and, notwithstanding s. 814.04 (1), the costs of the action, including reasonable attorney fees.”.

**63.** Page 32, line 3: after “(k)” insert “, or a title loan, as defined in s. 138.14 (1) (m)”.

**64.** Page 32, line 6: after “act,” insert “and title loans, as defined in section 138.14 (1) (m) of the statutes, as created by this act,”.

**(END)**

**2009-2010 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRBa2330/3ins  
MDK:.....

1

**INSERT 6-2:**

2

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4

**1.** Page 21, line 9: before "by returning" insert "or, if the place of business  
where the loan is made is open 24 hours, before 5 p.m. on the next day of business  
after the loan is made,".